

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

June 13, 2013

A meeting of the Board of Environmental Protection was held on Thursday, May 16, 2013 at the Civic Center, 76 Community Drive, Augusta, Maine. Robert Foley, Chair, called the meeting to order at 9:00 am with the following individuals:

Board: Present: Alvin Ahlers, Thomas Eastler, Robert Foley, M. Wing Goodale, and Richard Gould.
 Absent: Susan Lessard,
 There is one vacancy.

Staff: Mark Bergeron, Director Division of Land Resources Regulation
 Jim Beyer, Bureau of Land and Water Quality

Others: Heather Parent, DEP Policy Director
 Nancy Macirowski, Assistant Attorney General
 Cynthia S. Bertocci, BEP Executive Analyst
 Ruth Ann Burke, BEP Clerk and Administrative Assistant
 Richard Bard, Biologist, Maine Department of Inland Fisheries and Wildlife

I. Departmental**A. Commissioner's Comments:**

- Ms. Parent introduced Susanne Miller, the new Eastern Maine Regional Office Director in Bangor.
- Brownfields Funding: The U.S. EPA has awarded Maine 3.8 million dollars for remediation of brownfields. This is the 3rd highest amount awarded nationally.

B. Comments from the BEP Chair: None**C. Executive Analyst Comments:** The Legislature has authorized final adoption of the major substantive amendments to: 1) Chapter 882 enacting a sales prohibition on infant formula packaging and baby food packaging containing intentionally added bisphenol A in an amount greater than a de minimis amount, and 2) amendment to Chapter 2 regarding the definition of "aggrieved person." These rules will come back to the Board at the July 18th meeting for final adoption.**D. Board Calendar:** Reviewed. The next meeting is July 18, 2013.**E. Departmental Orders / Applications Accepted for Processing:** Reviewed**F. Executive Session:** None**II. Consent Agenda Items:**1. BEP Meeting Minutes: May 16, 2013 (approval)

The Board voted (4-0-1-1) on a motion to approve the minutes for May 16, 2013 with a correction to the spelling of Susanne Miller's name.

The vote was taken pursuant to 38 M.R.S. § 341-D.

Board members Alvin Ahlers, Thomas Eastler, Robert Foley, and Richard Gould voted to support the motion. Board member M. Wing Goodale abstained. Board member Susan Lessard was absent. There is one vacancy.

III. Regular Agenda Items:1. Town of Frye Island / Application for Park and Ride Facility #L-25719-NA-B-N
Request for Board Jurisdiction by the Friends of Raymond Cape (decision)
Staff: Cynthia Bertocci, Board Executive Analyst

At the meeting the Board heard oral argument from Stephean Chute, attorney for the Friends of Raymond Cape, regarding the nature of the proposed project and his view that it meets the statutory criteria for Board licensing jurisdiction set forth in 38 M.R.S. § 341-D(2). Attorney Mark Bowers responded on behalf of the applicant, Town of Frye Island.

Following discussion, the Board voted (5-0-1-0) on a motion by Board member Ahlers and seconded by Board member Gould to deny the request by the Friends of Raymond Cape for the Board to assume licensing jurisdiction over the application by the Town of Frye Island to construct a municipal park and ride facility in the Town of Raymond and to uphold the Commissioner's determination dated March 22, 2013 finding that the project does not meet the statutory criteria for Board jurisdiction.

The vote was taken pursuant to 38 M.R.S. § 341-D(2).

Board members Alvin Ahlers, Thomas Eastler, Robert Foley, Richard Gould and M. Wing Goodale voted to support the motion. Board member Susan Lessard was absent. There is one vacancy.

2) Richard and Margery Read / Appeal of Department Denial of Natural Resources Protection Act Permit for Residential Pier, Castine (decision)

Staff: Mark Bergeron, Director Division of Land Resources Regulation
Jim Beyer, ESIV, Bureau of Land and Water Quality

The Board heard oral argument by Richard Read and Lawrence Billings, P.E. for the applicants, and a response by Department staff Mr. Bergeron and Mr. Beyer. Richard Bard, a biologist with the Maine Department of Inland Fisheries and Wildlife responded to Board questions regarding MDIFW's review comments regarding the significant wildlife habitat at the site of the proposed development.

The Board voted (5-0-1-0) on a motion by Board member Goodale seconded by Board member Ahlers to deny the appeal and affirm Department Order #L-25839-4P-A-N/L-25839-TW-B-N/L-25839-FS-C-N denying the application.

The vote was taken pursuant to 38 M.R.S. § 341-D(2), 344, §480-A et seq. and 06-096 CMR 2(24).

Board members Alvin Ahlers, Thomas Eastler, Robert Foley, Richard Gould and M. Wing Goodale voted to support the motion. Board member Susan Lessard was absent. There is one vacancy.

3) Passadumkeag Wind Park LLC / Appeals of Department Denial of License for Wind Energy Development – Schedule for Consideration of Revised Order (discussion)

Appellants Passadumkeag Wind Park LLC and Penobscot Forest LLC had requested an opportunity to address the Board on the schedule for issuance of the draft order granting permit approval for the Passadumkeag Windpark as directed by the Board at its March 21, 2013 meeting. At the meeting Rhonda Cuprak objected to discussion of the matter stating that she, as a respondent, had not received sufficient advance notice of the meeting or the applicant's request. While making no determination on the sufficiency of the notice, Chair Foley withdrew the matter from consideration.

(The meeting adjourned at approximately 11:30 a.m.)

